

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 22-mj-00100-SMM



UNITED STATES OF AMERICA,

v.

KWAME HOLMES,

Defendant. _____/

CRIMINAL COVER SHEET

1. Did this matter originate from a matter pending in the Central Region of the United States Attorney's Office prior to August 8, 2014 (Mag. Judge Shanick Maynard)? No
2. Did this matter originate from a matter pending in the Northern Region of the United States Attorney's Office prior to October 3, 2019 (Mag. Judge Jared Strauss)? No

Respectfully submitted,

JUAN ANTONIO GONZALEZ
UNITED STATES ATTORNEY

By: _____

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August 2, 2022

AO 91 (Rev. 11/11) Criminal Complaint

AUSA Diana M. Acosta

UNITED STATES DISTRICT COURT

for the

Southern District of Florida

United States of America
v.

KWAME HOLMES,

Case No.

22-mj-00100-SMM

FILED BY YAR D.C.

AUG 02 2022

ANGELA E. NOBLE
CLERK U.S. DIST. CT.
S. D. OF FLA. - FT. PIERCEDefendant(s)

CRIMINAL COMPLAINT BY TELEPHONE OR OTHER RELIABLE ELECTRONIC MEANS

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of April 20, 2022 through June 10, 2022 in the county of Saint Lucie in the
Southern District of Florida, the defendant(s) violated:*Code Section*

Title 18 U.S.C. § 2250(a)

Offense Description

Failure to Register as a Sex Offender

This criminal complaint is based on these facts:

-SEE ATTACHED AFFIDAVIT-

☒ Continued on the attached sheet.

Complainant's signature

Scott Tracy, Deputy United States Marshal

Printed name and title

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1 by videoconference.

Date: August 2, 2022City and state: Fort Pierce, Florida

Judge's signature

Shaniek M. Maynard, U.S. Magistrate Judge

Printed name and title

**AFFIDAVIT OF
SCOTT TRACY, DEPUTY UNITED STATES MARSHAL
UNITED STATES MARSHALS SERVICE**

I, Scott M. Tracy, being duly sworn, do hereby depose and state as follows:

1. I am a Deputy United States Marshal with the United States Marshals Service (USMS) and have been so employed since January 2002. I am currently assigned to the Southern District of Florida, Fort Pierce.

2. During my tenure as a Deputy U.S. Marshal, I have conducted investigations of fugitives and sexual offenders. I am authorized under Title 28, United States Code, § 564 to enforce laws of the United States, including violations of the Sex Offender Registration and Notification Act (SORNA).

3. This affidavit is submitted in support of a criminal complaint for HOLMES, Kwame ("HOLMES"), who is a sex offender, currently living in the State of Florida, who failed to register in Florida as a sex offender, as required by S.O.R.N.A., in violation of Title 18, United States Code, Section 2250(a).

4. The information continued in this affidavit is based upon my knowledge, record checks on public and law enforcement databases, as well as information provided to me by civilians and other law enforcement officers. This affidavit does not set forth every fact known to me regarding the investigation, but only those facts necessary to establish probable cause to charge HOLMES, with violating Title 18, United States Code, Section 2250(a).

THE ADAM WALSH ACT

5. The Adam Walsh Child Protection and Safety Act of 2006 (Adam Walsh Act). Pub. L. No. 109-248, was enacted on July 28, 2006. Title I of the Adam Walsh Act, entitled the Sex Offender Registration and Notification Act (SORNA), created a national sex offender registry law. SORNA requires every jurisdiction to maintain a sex offender registry conforming to the requirements of SORNA. See Title 42, United States Code, § 16912. The term "sex offender" is defined as "an individual who was convicted of a sex offense." Id. § 16911(1). SORNA expanded the range of crimes covered by that term and established three "tiers" of sex offenders based on the seriousness of the sex offense of which they were convicted. See id. § 16911(2)-(8). The information to be provided by the sex offender for the registry, at a minimum, includes, name and aliases, social security number, residence, place of employment and/or school and vehicle information. See Title 42, United States Code, § 16914(a)(1)-(7).

Florida Statute Section 943.0435 defines the term "sexual offender" to mean a person: (1) has been convicted of committing, or attempting to commit an offense proscribed under Florida law or a similar offense proscribed under the laws of another jurisdiction; (2) establishes or maintains a residence in Florida; (3) has been designated by another sexual offender destination in another

state; and (4) was, as a result of such designation, subjected to registration and was, as a result of such designation, subjected to registration or community or public notification, or both, or would be if the person were a resident of that state or jurisdiction. without regard to whether the person otherwise meets the criteria for registration as a sexual offender. F.S.A. § 943.0435(1)(a)(1).

6. The basic requirement under SORNA is that “a sex offender shall register, and keep the registration current, in each jurisdiction where the offender resides, where the offender is an employee, and where the offender is a student. “*Id* § 16913(a). SORNA further specifies the process by which a sex offender must “keep the registration current”:

A sex offender shall, not later than 3 business days after each change of name, residence employment, or student status, appear in person in at least 1 jurisdiction involved pursuant to § 16913(a) and inform that jurisdiction of all changes in the information required for that offender in the sex offender registry. That jurisdiction shall immediately provide that information to all other jurisdictions in which the offender is required to register. *Id.* § 16913(c).

7. SORNA created a new federal offense for failure to register. Title 18 United States Code, § 2250(a) provides:

Whoever is required to register under the Sex Offender Registration and Notification Act; travels in interstate or foreign commerce, or enters or leaves, or resides in, Indian country; and knowing fails to register or update a registration as required by the Sex Offender Registration and Notification Act:

Shall be fined under this title or imprisoned no more than 10 years, or both.

INVESTIGATION

8. On September 15, 2011, HOLMES was arrested by the Linden Police Department, Union County, New Jersey, for one count of Criminal Sexual Contact (NJ Statute 2C:14-3B) and one count of Endangering the Welfare of Children (NJ Statute 2C:24-3B).

9. On February 22, 2012, HOLMES was convicted upon a plea of guilty in the Superior Court of New Jersey, UNION County, case number 12-08-00199A, of Criminal Sexual Contact (NJ Statute 2C:14-3B). Victim was at least 13 years of age but not more than 16 years of age.

10. On May 11, 2012, HOLMES was sentenced to the following:

- a. Placed on a period of probation for 30 months,
- b. Credit for time served of 161 days in county jail,

- c. Must comply with all standard conditions of probation,
- d. Shall follow all Megan's Law conditions,
- e. Shall have no contact with Victim.

11. Sometime between May 2012 and May 2013, HOLMES moved from New Jersey to New York.

12. On May 16, 2013, HOLMES per New York State Board of Examiners of Sex Offenders was classified as a Sexually Violent Offender and was also classified as a Tier 2 Sexual Offender with a requirement to register for life.

13. On November 2, 2015, HOLMES registered as a sex offender with the state of New York. On this registration, HOLMES signed and acknowledged the conditions set forth on the New York State Sex Offender Registration Form. On this form, HOLMES acknowledged the following, among other things:

- a. "2. You must notify DCJS in writing of any change of your home address no later than 10 days after you move..."
- b. "3. You must verify your home address in writing every year while you are registered as a sex offender, DCJS will mail an address verification for to your last registered address. You must sign, date and return the form to DCJS within 10 days after receipt of the form."
- c. "NOTE: If you move to, work in or attend school in another state or country, you may be required to register as a sex offender in that state or country. It is your responsibility to check state / country laws."

14. Between November 2, 2015 and October 14, 2021, HOLMES registered as a sex offender with the state of New York 7 times.

15. On his sex offender registrations, HOLMES acknowledged his residential address of 823 East 215th Street, 2nd Floor, Bronx, New York, 10467 and a phone number of 646-363-5150.

16. On April 7, 2017, HOLMES obtained a New York State Identification Card. This identification card listed an address of 523 East 215th St, Bronx, New York 10457.

17. On May 5, 2022, I received information from Inspector Jeremy Gordon from the Florida Department of Law Enforcement (FDLE) that a convicted sex offender by the name of Kwame HOLMES had obtained a Florida Identification Card without the sex offender identifier and had not registered in the State of Florida as required by law. F.S.A. § 943.0435(3).

18. HOLMES obtained a Florida Identification card on April 20, 2022 with an address of 2695 NW Hatches Harbor Rd, Apt 203, Port St Lucie, Florida, 34983. HOLMES used his New York Identification Card, New York Birth Certificate and a Florida DMV Certification of Address Form signed by HOLMES and S.B. as proof of identification. S.B. is HOLMES' mother. S.B. has been living at the Hatches Harbor address since approximately 2013. Brown has a Kia Sorento registered to her with a Florida License Plate number KUK Z23.

19. On April 22, 2022, HOLMES obtained a Florida Learner License with an address of 2695 NW Hatches Harbor Rd, Apt 203, Port St Lucie, Fl, 34983. HOLMES' Learner License does not have the sex offender identifier as required by Florida Statute Section 943.0435(3).

20. On both the Florida Identification Card and Florida Learner License, HOLMES selected "NO" for both questions asking if HOLMES was a Sexual Predator or Sexual Offender. HOLMES then signed the documents acknowledging the following statement.

a. "Under penalty of perjury, I swear of affirm that the information given by me in this application is true and correct."

21. On May 13, 2022, HOLMES obtained his Florida Driver License. On HOLMES' road exam, the tag number of the vehicle used for the exam is KUK Z23. This vehicle is registered to HOLMES' mother at the Hatches Harbor address.

22. HOLMES' Florida Driver License does not have the sex offender identifier as required by Florida Statute Section 943.0435(3).

23. On June 2, 2022, I contacted the New York Police Department, 47th Precinct, 4111 Laconia Ave, Bronx, NY 10466, 718-920-1211. This Precinct is located 1.3 miles from the listed address of 523 East 215th Street. Per the Detective, 523 East 215th Street is not a valid address. 707 East 215th Street, Bronx, NY 10457, is the first address for that location.

24. The investigation shows that HOLMES has been working at the Taj Indian Restaurant located at 529 NW Prima Vista BLVD, Suite 104, Port Saint Lucie, Florida, 34983 for the first quarter of 2022. On or about June 9, 2022 at approximately 5:12 pm, a KIA Sorento with Florida License Plate number KUK Z23 was seen parked to the side of the restaurant. On or about June 10, 2022 at approximately 4:55 pm, HOLMES was seen exiting a KIA Sorento, Florida License Plate number KUK Z23 and entering the restaurant.

25. On June 8, 2022, a Diligent Search was conducted by FDLE for any sex offender registrations in Florida for Kwame HOLMES. No registrations were located.

26. On June 10, 2022, a federal search warrant for HOLMES' cell phone, 646-363-5150 was obtained in Case No. 22-mj-00070-RMM. T-Mobile was served the search warrant on June 14, 2022. On June 19, 2022, requested information for the search warrant was received from

T-Mobile. Information received included subscriber information, call detailed records, hot number list and cell tower hits.

27. The subscriber information comes back to HOLMES showing an account effective date of August 6, 2015. The subscriber address is listed as 3530 White Plains Rd, Bronx, NY 10467. This address is a T-Mobile Store and not HOLMES' address.

28. The historical cell site tower history shows that from March 1, 2022, until April 27, 2022, all cell phone hits are in the Southern District of Florida, from Fort Pierce down to West Palm Beach, with one exception on March 15, 2022, there is a cell tower hit in Daytona Beach, Florida in the Middle District of Florida.

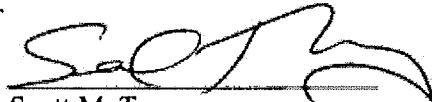
29. Between April 28, 2022, and May 1, 2022, there is one cell tower hit on April 28, 2022, near Atlanta, Georgia and then between April 28, 2022, and May 1, 2022, HOLMES's cell phone is up in the New York City area with a majority of the hits coming from East 213th Street and Barnes Avenue, Bronx, New York. This address is approximately .3 miles from HOLMES's former address of 823 East 215th Street, Bronx, New York.

30. From May 2, 2022, until June 10, 2022, all of HOLMES's cell tower hits are in Fort Pierce, in the Southern District of Florida.

31. On June 16, 17 and 18, 2022, KIA Sorento with Florida License Plate KUK Z23 was seen parked in front of the building 2695 Hatches Harbor Dr, Port Saint Lucie, Florida 34983. This is the address listed on HOLMES' Florida Driver License.

32. Based upon the foregoing, there is probable cause to believe that Kwame HOLMES has committed the crime of Failure to register as a Sex Offender, in violation of Title 18, United State Code, 2250(a).

FURTHER YOUR AFFIANT SAYETH NAUGHT


Scott M. Tracy
Deputy United States Marshal
United States Marshals Service

Sworn to before me, by video conference, in accordance with the requirements of Rule 4.1 of the Federal Rules of Criminal Procedure, this 2nd day of August, 2022.

August 2, 2022




SHANIEK M. MAYNARD
UNITED STATES MAGISTRATE JUDGE